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Supreme Court, U.S.
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No. 93-2067

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1994

DEWAN WHITE, Petitioner,

v.

PEOPLE OF THE STATE OF ILLINOIS, Respondents.

RASHAUN B. LAWRENCE, Petitioner,

v.

PEOPLE OF THE STATE OF ILLINOIS, Respondents.

RESPONSE TO MOTION TO STRIKE PORTIONS OF BRIEF IN OPPOSITION TO PETITION FOR CERTIORARI

Respondents, the People of the State of Illinois, respectfully ask this Court to deny Petitioners' Motion to Strike Portions of Brief in Opposition to Petition for Writ of Certiorari.

1. Petitioners seek review of the decision of the Illinois Supreme Court upholding the constitutionality of a law that permits young adults charged with committing certain narcotics offenses within 1000 feet of public housing property to be subject to the criminal code rather than the juvenile code.

2. Petitioners filed a motion to strike the following passage from the People's Opposition Brief:

> Respondents and the Chicago Housing Authority, in an amicus brief, offered information to the Illinois Supreme Court which showed that of the 82,770 public housing dwelling units in Illinois, only 42,510 units were in Chicago. In addition, the information presented demonstrated that the racial composition of public housing was quite different than the

> racial composition of Chicago Housing Authority residents.

(Opp. Br. at 7-8.) The above passage was followed by a note stating:

> Defendants did not believe the court should consider this information and filed motions to strike it from the State and amicus briefs. The court granted the motion to strike because it did not need the information to find fault with defendants' case.

(Opp. Br. at 8 n.2.) Specifically, the court stated: "We grant the motion to strike because we need not consider the information." People v. R.L., 634 N.W.2d 733, 736 (1994). The above statements are accurate summaries of the procedural history of this case and for that reason alone are therefore proper.

3. Petitioners ought to demand from themselves the same restraint they puportedly seek from the People. In their reply brief, Petitioners have no problem with "offering the Court" information that was not presented by anyone to any court. See e.g., Reply Br. at 2 (stating, "...Whites account for eighty percent of the illegal drug use in this country, yet African Americans are arrested at four to five times the rate of Whites"); Reply Br. at Appendix A (Reports and Proposals:Sentencing Commission's Symposium on Drugs and Violence Puts Emphasis on Prevention); Reply Br. at Appendix B (The Illinois Supreme Court Special Commission on the Administration of Justice: Final Report, Part II, December, 1993). While the above information looks quite similar to the material to which petitioners object, the subject of petitioners' motion is utter silliness that the State will not reciprocate.

4. Petitioners' case is premised on a stereotype that cannot go uncorrected. Petitioners disguised their prejudice toward public housing developments in the lower courts, but now that prejudice has been exposed. Petitioners believe that "'public housing' means 'Black neighborhood' in Illinois", and "the term 'public housing,' at least in Illinois and particularly with regard to the CHA, is a 'code word' for African Americans...." (Reply Br. at 3, 4.) The information presented by respondents, which is common sense to anyone who cares to examine the facts, directly refutes the unsubstantiated stereotype that petitioners have continuously spewed throughout this appellate process. Petitioners should not be allowed to perpetuate a stereotype and to state in a legal document that low income equals race.

5. If Ciucci v. Illinois, 356 U.S. 571, 573 (1957), is all that supports petitioners' position, it has no support. In Ciucci, the material before the Court was described as follows:

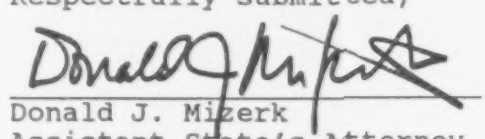
> In his brief in this Court petitioner has appended a number of articles which had appeared in Chicago newspapers after the first and second trials attributing to the prosecution certain statements expressing extreme dissatisfaction with the prison sentence fixed by the jury and announcing a determined purpose to prosecute petitioner until a death sentence was obtained.

Id. at 572-73. The above material is hardly analogous to the reference made in the People's brief. In addition, the quotation cited by petitioner can fairly be attributed only to two justices. Id. at 573 (attributing the reasoning to Justices Frankfurter and Harlan).

6. Striking the challenged language from the People's brief will not change the facts--public housing exists in large numbers outside the city of Chicago. The information petitioners seek to hide from the Court simply draws attention to the errors counsel has made in presenting their case. Because they have ignored facts relating to the statewide applicability of the statute, the information petitioners presented in the trial court became incomplete and irrelevant.

Petitioners' motion should be denied because the People accurately stated the facts of this case, because the statement is necessary to correct unsupported misstatements in petitioners' argument and because the information is basic and merely a factual account of knowledge that is common sense to most sane and informed people.

Respectfully submitted,



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